

ORRICK, HERRINGTON & SUTCLIFFE LLP

Lorraine McGowen, Esq. (admitted *pro hac vice*)

Michael Trentin, Esq.

Jenna MacDonald Busche, Esq. (admitted *pro hac vice*)

51 West 52nd Street

New York, NY 10019-6142

Telephone: (212) 506-5000

Facsimile: (212) 506-5151

Email: lmcgowen@orrick.com

mtrentin@orrick.com

jmacdonaldbusche@orrick.com

Counsel to esVolta, LP

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**

In re:

POWIN, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 25-16137 (MBK)

(Jointly Administered)

**ESVOLTA, LP'S LIMITED OBJECTION TO AND RESERVATION OF RIGHTS
REGARDING NOTICE OF POTENTIALLY ASSUMED EXECUTORY CONTRACTS
AND UNEXPIRED LEASES**

esVolta, LP ("esVolta"), by and through its undersigned counsel, hereby submits this limited objection and reservation of rights (this "Limited Objection") in response to the *Notice of Potentially Assumed Contracts and Unexpired Leases* [Dkt. No. 446] (the "Notice").² In support of this Limited Objection, esVolta respectfully states as follows:

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: (i) Powin Project LLC [1583]; (ii) Powin, LLC [0504]; (iii) PEOS Holdings, LLC [5476]; (iv) Powin China Holdings 1, LLC [1422]; (v) Powin China Holdings 2, LLC [9713]; (vi) Charger Holdings, LLC [5241]; (vii) Powin Energy Ontario Storage, LLC [8348]; (viii) Powin Energy Operating Holdings, LLC [2495]; and (ix) Powin Energy Operating, LLC [6487]. The Debtors' mailing address is 20550 SW 115th Avenue Tualatin, OR 97062.

² Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Notice.

LIMITED OBJECTION

1. esVolta, by and through certain subsidiaries, develops, owns, and operates certain utility-scale battery energy storage projects located throughout the United States (the “Projects”). The Projects include, among others, Santa Paula Energy Storage in Ventura County, California (the “Santa Paula Project”).

2. Prior to the Petition Date, esVolta’s subsidiary Santa Paula Energy Storage, LLC (“Santa Paula Owner”) entered into (a) a Battery Equipment Supply Agreement (the “Santa Paula ESA”) with Powin pursuant to which Powin provided and commissioned a BESS at the Santa Paula Project and (b) an Operation and Maintenance Agreement (the “Santa Paula OMA”; together with the Santa Paula ESA and all other related agreements and amendments thereto, the “Santa Paula Contracts”) with Powin pursuant to which Powin agreed to maintain the BESS.

3. On June 9, 2025 (the “Petition Date”)³, the Debtors each commenced a voluntary case for relief under chapter 11 of the Bankruptcy Code (collectively, the “Chapter 11 Cases”) in the United States Bankruptcy Court for the District of New Jersey (the “Court”). No trustee or examiner has been appointed in these Chapter 11 Cases.

4. On June 17, 2025, the Debtors filed the *Omnibus Motion of the Debtors for Entry of an Order (I) Authorizing the Rejection of Legacy Customer Contracts and (II) Granting Related Relief* [Dkt. No. 88] (the “Rejection Motion”). Pursuant to the Rejection Motion the Debtors sought to reject the Santa Paul ESA, the Santa Paula OMA, and a related agreement.

5. On July 8, 2025, esVolta filed *esVolta, LP’s Limited Objection to and Reservation of Rights Regarding Omnibus Motion of the Debtors for Entry of an Order (I) Authorizing the Rejection of Legacy Customer Contracts and (II) Granted Related Relief* [Dkt. No. 300] seeking

³ Debtor Case No. 25-16137 (MBK) for Debtor Powin Project LLC was filed on June 9, 2025, and the remaining Debtors were filed shortly thereafter on June 10, 2025.

continued access to certain critical, licensed intellectual property and certain resourcing assistance and cooperation from the Debtors. esVolta did not, however, oppose the Debtors' right to reject its contracts with Santa Paula Owner as a general matter.

6. On July 18, 2025, the Debtors filed the Notice. The Notice lists the Santa Paula ESA and a related side letter as two of the executory contracts to potentially be assumed, each with a cure amount of \$0.00 (the "Incorrect Cure Amounts"). *See* Notice Ex. A, p. 21.

7. On behalf of Santa Paula Owner, esVolta hereby objects to the Notice to the extent that the relief sought thereunder conflicts with the relief sought in the Rejection Motion.

8. esVolta further objects to the Incorrect Cure Amounts. Santa Paula Owner's total damages, which must be cured as a condition of assumption or assignment of the Santa Paula Contracts under Bankruptcy Code section 365(b), are not yet determined but will be significantly more than zero.

RESERVATION OF RIGHTS

9. esVolta expressly reserves all rights under the Bankruptcy Code and the Santa Paula Contracts, including, without limitation, the right to supplement and/or amend this Limited Objection and/or assert any further objections related to the Notice.

10. esVolta further reserves the right to assert any and all other claims against the Debtors arising out of or related to the Santa Paula Contracts and to dispute any proposed assignee's ability to provide adequate assurance of future performance.

[Remainder of Page Intentionally Left Blank]

Dated: New York, NY
July 28, 2025

ORRICK, HERRINGTON & SUTCLIFFE LLP

/s/ Michael Trentin

Michael Trentin, Esq.

Lorraine McGowen, Esq. (admitted *pro hac vice*)

Jenna MacDonald Busche, Esq. (admitted *pro hac vice*)

51 West 52nd Street

New York, New York 10019-6142

Telephone: (212) 506-5000

Facsimile: (212) 506-5151

Email: mtrentin@orrick.com

lmcgowen@orrick.com

jmacdonaldbusche@orrick.com

Counsel to esVolta, LP